

## **MINUTES**

### **NATURAL RESOURCES COMMISSION**

**Grandville Center  
2900 Wilson Avenue  
Grandville**

**APRIL 11-12, 2002**

#### **PRESENT**

Jim Campbell  
Keith J. Charters, Chair  
Nancy Douglas  
Paul Eisele, Vice-Chair  
Bob Garner

K. L. Cool, Director  
George Burgoyne, Resource Management Deputy  
James Ekdahl, Upper Peninsula Field Deputy

Mike Leffler, Legal Counsel  
Department Staff

#### **ABSENT**

William Parfet  
Frank Wheatlake

#### **COMMITTEE OF THE WHOLE**

**Chairman Charters** called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:15 p.m. on Thursday, April 11, 2002. The Committee of the Whole is a working session of the NRC.

\* \* \*

#### **Off-Road Vehicle Trails Advisory Board**

**Ed Hagan, Parks and Recreation Bureau**, provided a history of the Off-Road Vehicle Trails Advisory Board created within the Department of Natural Resources in 1991. In 1995, Governor Engler abolished the Committee by Executive Order and transferred all statutory authorities to the Natural Resources Commission. In October 1995, the Commission reestablished the ORV Advisory Board that consisted of seven members. In December 1995, the Commission

adopted roles, responsibilities and term limits. However, the process in approving board members is unclear. Staff is proposing that the NRC approve recommendations which clarify or reaffirm earlier action and to serve as the complete statement of the composition and role established by the Commission for the ORV Advisory Board. The recommendation is that three of the members shall represent ORV users and dealers; two of the members shall represent natural resources, conservation, or environmental groups; one member shall be a county sheriff, representing law enforcement; one member shall represent the general public at large. At least one of the seven members shall be from the Upper Peninsula. Also, the proposal recommends that the Board shall meet at least four times per year, and shall elect a Chairperson and Vice-Chairperson annually. The Chairperson of the Board shall report to the NRC annually.

**Richard Rondeau, Michigan ATV Association**, stated their group is pleased with and supports the proposal.

**Commissioner Douglas** recommended that one meeting of the Board per year be held in the Upper Peninsula.

### **Snowmobile Trail Program**

**Ed Hagan** reported that 6,000 miles of designated snowmobile trails exist in Michigan and are groomed and managed through 64 grant sponsors. Of these 6,000 miles of trails, 50 percent are private lands, 25 percent are national forest lands and 25 percent are state forest lands. Snowmobile trails fees were increased this past season and sales were down by 15 percent. Staff is unsure whether the decrease is because of resistance to the increase or weather related. Maintenance of these trails relies heavily on volunteers.

### **ORV Trail/Route Program**

The trail program has many similarities to the snowmobile trail program. They are designated, groomed and managed through 12 grant sponsors. Seventy-three percent of the 3,185 ORV trail miles are on state forest lands; 12 percent are federal lands and 15 percent are county/state forest road right-of-ways. The designated trails are the only legal places to ride on public forest lands in the Lower Peninsula. In 2000, 145,000 licenses were issued. A 58 percent growth has been noticed over the past five years.

### **Michigan Trailways Program**

These trails are multiple use trails created mainly from abandoned railroads for motorized and non-motorized uses. Statewide there are 1,016 miles of rail trails of which 655 miles are Forest, Mineral and Fire Management Division trails; 198 miles are Parks and Recreation Bureau trails; and 163 miles are local units trails.

**Chairman Charters** questioned whether snowmobilers support themselves through fees. **Mr. Hagan** responded that they did. **Chairman Charters** then inquired about what other users are paying for repairs. **Mr. Hagan** responded that no means of paying for repairs exists for other users such as walkers, bikers and horsebackers. He stated that damage to the trails resulting from snowmobile usage does not seem irreparable as was thought before. Various different paving materials are being utilized to reduce trail damage. **Chairman Charters** noted that the Michigan Natural Resources Trust Fund Board acquires the land and we need to continuously seek a means of funding for maintenance of trails. **Mr. Hagan** stated that these trails are very important to local governments and that more local assistance needs to be obtained.

**Mr. Hagan** reported that the trails program is a rapidly growing program with large local economic impacts. It is critical that local volunteer partnerships for management and development are built to address long-term operation concerns. Day-to-day program management must be maintained including: addressing conflicts on multiple use trails; consistent signing, and others.

#### **Lawsuits Briefing and Update – Sierra Club Lawsuit**

**Carol Bambery, Legislative Liaison**, reported that Judge Richard Enslen ruled in the Department of Natural Resources' favor relative to the lawsuit filed by the Sierra Club alleging inappropriate usage of Pittman-Robertson Funds by the DNR. Judge Enslen adjudicated that the funds were not inappropriately utilized. **Ms. Bambery** recognized Chris Dobyys from the Office of the Attorney General for providing legal counsel for the DNR; Jon Parker from the U.S. Fish and Wildlife Service, and for those present who filed Amici Briefs: Dennis Fox (MUCC), Adam Bump (Ruffed Grouse Society), Mike Kennedy (National Wild Turkey Federation) and Safari Club International.

**Rebecca Humphries, Chief, Wildlife Division**, recognized staff present who were involved in this lawsuit: Bob Humphries, Doug Erickson; Christine Hanaburgh, and Penney Melchoir. She also recognized Chris Dobyys for his legal counsel in this matter and thanked Director Cool and DNR staff for their support.

**Chris Dobyys** commended the DNR staff for their efforts in this process.

**Commissioner Eisele** stated that this was an important case and asked if the decision stood a chance to be challenged. **Mr. Dobyys** replied that Judge Enslen's decision was well thought-out by Judge Enslen. It was an important case and that the Judge understood that. He believes that the result was the correct one.

**Director Cool** stated that this Lawsuit was viewed as a national issue by State natural resources agencies. As a result of this lawsuit, we will be able to continue to apply the same measure of scientific wildlife management, unbiased information, and provide public opportunities for discourse of tried-and-true wildlife management practices. A cooperative working relationship between conservationists and the DNR has not been fractured by the Sierra Club. Director Cool thanked staff and Chris Dobyms for their efforts and excellent work on this issue.

#### **Lawsuits Briefing and Update**

**Chris Dobyms** reported that a lawsuit filed by Richard Smith of Marquette challenging the Wildlife Conservation Order on feeding in Marquette was dismissed by Judge Solka. **Mr. Dobyms** believes this was an important decision for the NRC and supported the NRC authority to issue orders relative to feeding and baiting.

\* \* \*

The Committee of the Whole meeting adjourned at 4:04 p.m.

## **REGULAR MEETING OF THE NATURAL RESOURCES COMMISSION**

**Chairman Charters** called the regular meeting of the Natural Resources Commission (NRC) to order at 4:30 p.m. on Thursday, April 11, 2002.

### **Public Appearances**

**John Wagner, New Boston**, reported that a meeting was held with Quality Deer Management Association members in deer management units (DMU) 135 and 35 on April 6, 2002 to vote on the "no spike rule" for DMU 135. Also invited to this meeting were those hunters from DMU 35 who requested their opinion on a "no fork horn rule" in that DMU. From this meeting came the three following recommendations:

Proposal #1: For all seasons beginning in year 2002 that the current no spike rule for DMU 135 (formerly DMU101) be made permanent, as a minimum."

Proposal #2: For the next five seasons beginning in the year 2002 that a no fork horn rule for DMU 135 be implemented."

Proposal #3: For the next five seasons beginning in the year 2002 that a no fork horn rule for DMU 35 be implemented."

**Mr. Wagner** requested that a decision be made on these proposals by the next hunting season. Discussion ensued on timing and process for action. Rebecca Humphries stated that the current regulations remain in effect until they are changed by the NRC.

**Randy Fairbanks, Thunder Bay Trails Association** addressed three issues that he said are causing concern not only with their Association, but also with other non-profit volunteer trails groups across the state. These issues are: the existence of a standing policy of no new unfunded recreation facilities developed on state forest lands; being able to meet the needs of a gift and acceptance agreement for design and/or construction of a facility; and failure of the DNR's Lansing based offices working with non-profit volunteer groups in their efforts to expand, enhance and improve Michigan's non-motorized trails system. He asked for a change by the DNR to recognize the value of volunteer non-profit groups. He specifically requested that the NRC convince Forest, Mineral and Fire Management Division to allow Thunder Bay Trails Association to construct some mountain bike-specific single tracks at the Chippewa Hills Pathway.

**Randy Smith, Whitetails Forever Network**, supports voluntary quality deer management.

**Mr. Smith** presented the Whitetails Forever Network 2002 Deer Survey. The survey results by Whitetails Forever indicated a whitetail deer population of 3,200 in Gratiot County. Based on this survey, he disagrees with the DNR's deer population estimates in Gratiot County. **Commissioner Garner** requested that staff provide deer population estimates to him. He agreed to work with the Whitetails Forever Network to resolve this discrepancy.

**Mitch Jonassen, Hart**, submitted a petition of 278 petitioners and numerable property owners requesting that, "The State of Michigan, the Department of Natural Resources, Parks and Recreation Bureau: A. Build a paved two-lane solid hard surface road, from the off-road vehicle area entrance to Lake Michigan; B. Build a bath house with flush toilets, showers and dressing rooms; build a concession convenience store; build a natural resources conservation education building; and a 100 vehicle parking facility with senior citizen, handicap accessible for the physically challenged, children and an environmental friendly design. In the Silver Lake Dune Park in the middle of the western side of the pedestrian area on the shores of the Great Lake of Lake Michigan; C. Designate the Silver Lake Dune Park a nature reserve and have NO oil, natural gas, salt and water drilling and/or wells; D. Name the facility the Silver Lake Natural Conservatory. **Chairman Charters** stated that these activities would need to be funded through Michigan Natural Resources Trust Fund dollars.

**Dave Heyboer, West Michigan Trail/Greenways Coalition, Friends of the White Pine Trail**, presented an update on activities on the White Pine Trail including bridge projects, paving, building projects, trail clean-up and trail patrol. He also addressed some issues that he would like to see addressed such as paving in certain areas on the trail, protecting paved areas from snowmobile stud usage, and addressing damage to portions of the trail from tree roots.

**Ann-Marie Bauer, West Michigan Trails/Greenways Coalition**, is pleased to be the first Coalition coordinator. The vision of this Coalition is to complete a regional trails/greenways network connecting natural areas, parks, historic sites and landmarks, cultural venues, civic destinations, open spaces and communities. The proposed regional trail network will pass through 14 counties and four west Michigan metropolitan areas. She stated that the Coalition is currently involved in the planning and development of over 25 miles of interconnected trails with over 890 miles of trail loop combinations. Currently, there are over 35 Coalition partners.

**Director Cool** commended the Coalition for its efforts and looks forward to working with them.

**Dennis Fox, MUCC**, thanked the DNR and the ORV Advisory Board for their efforts to reexamine and offer revisions for the Board's structure and duties. He

suggested that **Mr. Paul Muldar** be considered for the vacant natural resources, conservation or environmental position.

**Mr. Fox** reported that, on March 28, 2002, MUCC hosted an informational meeting in Hillman, to provide MUCC members and the general public with information on the use of sharpshooters for the taking of deer. MUCC thanked representatives from the DNR, USDA and the Bovine TB Eradication Project for providing information to interested individuals from the area. At this meeting MUCC did not request the complete elimination of spring disease control permits, but asked that the following conditions first be met prior to issuance:

1. The farm or agricultural facility should first be inspected by a wildlife biologist to ensure that all reasonable precautions have been taken to not attract deer to the site (i.e., hay bales are properly covered or stored).
2. The biologist must be convinced that sufficient risk of wildlife/livestock contact or interaction exists to warrant removal.
3. If insufficient MDNR personnel are available to make such facility inspections then the permits should not be issued.
4. Use of night-shooting and/or use of sound suppression devices (silencers) should be limited to certain stringent conditions.
5. Criteria for use of disease control permits should be clearly established in a written document and if they already are, those documents should be made available to the public.

**Commissioner Garner** thanked MUCC for coordinating this meeting.

**Tony Smith, Eaton County QDMA**, reported on the newly-formed Eaton County Branch of Quality Deer Management. The group has held its first informational workshop and they are in the initial stages of the process.

**Clare Harrington Wild Turkey Federation**, welcomed the NRC and staff to the area and expressed thanks for cooperation in developing the turkey regulations.

**Al Stewart, Wildlife Division**, reported that **Mark Bishop** from DNR's Barry State Game Area, recently received the Joe Kurz award specifically designed for someone who works behind the scenes "to make something happen."

**Mike Kennedy, National Wild Turkey Federation**, reported that the Wild Turkey Federation has carried on the distribution of the turkey patch. The DNR had made a decision to discontinue issuing the turkey patches. In cooperation with the DNR, the Wild Turkey Federation has developed a turkey patch and will

provide them upon request. Profits from selling the patches will go to DNR turkey habitat cost-share improvement projects in the State. Discussion ensued regarding the value of the patch.

**Rob Anderson, Michigan Farm Bureau**, appreciates and looks forward to the opportunity to work through wildlife issues through the Wildlife Issues Committee. He encouraged the NRC to move in the preferred direction of staff relative to feeding and baiting regulations although Farm Bureau policy recommends further reduction. He offered their services in assisting in hunter access programs and appreciates the support of MUCC. **Director Cool** questioned **Mr. Anderson** what his thoughts were on the fencing issue. **Mr. Anderson** stated they are taking a look at the issue. From their perspective, they must weigh the issues carefully. **Director Cool** stated that funding and definition needs to be provided to address the issue of disease risks in the state and looks for answers with the private landowners. **Mr. Anderson** stated that the industry is prepared to do a substantial amount of work and put forth effort to monitor and test to see what is "out there" and what is happening in the confines of captive animal areas.

**Richard Rondeau, Michigan ATV Association**, offered support for the Off-Road Vehicle Advisory Board recommendations and requested support in the Association's role of grant sponsor. He also addressed issue of liability on the part of the Association members and stated that insurance for these organizations is a key issue.

\* \* \*

The Natural Resources Commission meeting adjourned at 6:30 p.m. on Thursday, April 11, 2002 and reconvened at 8:40 a.m. on Friday, April 12, 2002.

\* \* \*

## **DIRECTOR REPORTS**

### **South Fox Island**

**Director Cool** reported that a letter addressed to him and Lowen Schuett, Office of Property Management has been received, from Attorney General Jennifer Granholm relative to the marketability of title for property on South Fox Island. This letter opines that Mirada Ranch., Inc. does not hold marketable title to the property that is the subject of the DNR exchange unless the requirements identified in the opinion are met (letter attached). **Director Cool** stated that consensus between our staff and legal counsel for the Attorney General that handles real estate issues has not been reached regarding the impact of the changes required by the Attorney General's letter on our pending and future real estate transactions. Discussion ensued relative to the impacts of the Attorney



General's letter. A response letter will be prepared by the Director relative to this issue (attached).

**Commissioner Garner** suggested this is a letter of opinion versus a formal opinion. He suggested obtaining a formal opinion.

**Jim Ekdahl, Upper Peninsula Field Deputy** said the problem with this letter is that it may give credence to unproven claims and assertions by groups such as the tribes and could bring these issues to the forefront in other areas of the state.

### **Sierra Club Lawsuit**

**Director Cool** reported that another lawsuit has been filed by the Sierra Club against the U.S. Forest Service alleging inappropriate application of Aspen harvest. The Michigan DNR intends to join in the lawsuit, however, without legal counsel from the Attorney General's Office. The Ruffed Grouse Society, MUCC and possibly other groups will also join in this case.

\* \* \*

### **FOR INFORMATION ONLY – NATURAL RESOURCES COMMISSION ACTION IN MAY**

**Chairman Charters** reported that these items were discussed during the Wildlife Issues Committee meeting held earlier.

**Commissioner Garner** commented that, relative to the Sierra Club lawsuit regarding Aspen management, if the Aspen is not cleared, woodcock would likely disappear.

### **ENTRY OF MINUTES – MARCH 26, 2002 WILDLIFE REGULATIONS MEETING – MARQUETTE**

**Chairman Charters** asked that the Minutes of the March 26, 2002 meeting be entered for the record.

### **APPROVAL OF MINUTES – MARCH 7-8, 2002 NATURAL RESOURCES COMMISSION MEETING**

**Commissioner Eisele** made a motion, supported by **Commissioner Campbell**, for approval. Motion unanimously carried.

### **OFF-ROAD VEHICLE TRAILS ADVISORY BOARD**

**Commissioner Eisele made a motion, supported by Commissioner Douglas, to support the staff recommendation. Motion unanimously carried.**

### **NRC POLICY COMMITTEE ON WILDLIFE ISSUES MEETING REPORT**

**Commissioner Garner, Chair of the Committee**, reported that this Committee met on April 11, 2002 at 1:00 p.m. at the Grandville Center. Chronic Wasting Disease, For Information Only Wildlife Orders, and bovine tuberculosis Policy were discussed. **Commissioner Garner** stated that a Memorandum of Understanding (MOU) was signed by the Michigan Departments of Agriculture and Natural Resources and the U.S.D.A. relative to bovine tuberculosis. **Commissioner Garner** requested that DNR staff prepare a Wildlife Conservation Order commensurate to the MOU that will initially look at bovine tuberculosis and establish criteria in the event chronic wasting disease encroaches the Michigan border.

**Chairman Charters** recommended that the NRC and the DNR continue to put pressure on the fencing issue.

### **COMMISSIONER REPORTS**

**Commissioner Douglas** received phone calls and had discussions with trappers regarding the daily trap check issues and chronic wasting disease. **Becky Humphries** stated that the the Trapping Work Group is meeting and will continue to meet with trappers regarding the daily trap check issue.

**Commissioner Campbell** received calls relative to trapping.

**Commissioner Eisele** spoke to individuals regarding quality deer management.

**Commissioner Garner** was the keynote speaker at the Flint Chapter of the Safari Club International where Dave Kenyon, DNR's Photographer received an award. He also received several phone calls on issues relative to the newly-developed Wildlife Issues Committee as well as baiting, feeding and chronic wasting disease issues. Commissioner Garner extended a thank you to Tom Morang, Michigan Bow Hunters Association, for his daily e-mails sending current media coverage on chronic wasting disease in Wisconsin.

**Chairman Charters**, noted that he had signed a letter to Attorney General Jennifer Granholm in response to a letter from her relative to state land. He reported on a meeting with Wayne Wood, President, Michigan Farm Bureau; and stated that he will be involved in a meeting on April 18, 2002 with Michigan Farm

MINUTES  
PAGE 11  
APRIL 11-12, 2002

Bureau, U.S.D.A., Michigan Department of Agriculture, and Representative Sheltrown in the bovine tuberculosis area.

**DIRECTOR'S ACTION ITEMS**

Director Cool intends to approve all Director's Action Items on the agenda.

\* \* \*

The meeting adjourned at 10:00 a.m.